

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA,

Case No. 10-CR-0304(3) (PJS/AJB)

Plaintiff,

v.

ORDER

KEENER BASURTO,

Defendant.

On October 17, 2011, the Court sentenced defendant Keener Basurto to 60 months' imprisonment and 5 years of supervised release. Basurto now brings a motion requesting that the Court reduce his sentence because he feels that the sentence is unduly harsh, and because his incarceration has been hard on his family.

The Court, however, is without authority to reduce Basurto's sentence on these grounds. Basurto is not claiming that his sentence was imposed in violation of the Constitution or federal law, as would be necessary to invoke 28 U.S.C. § 2255, or that his sentence is the result of "arithmetical, technical, or other clear error," as would be necessary to invoke Fed. R. Crim. P. 35(a), or that it is a result of "clerical error," as would be necessary to invoke Fed. R. Crim. P. 36. The Director of the Bureau of Prisons has not made a motion pursuant to 18 U.S.C. § 3582(c)(1)(A), nor has the government brought a motion pursuant to Fed. R. Crim. P. 35(b). Finally, Basurto does not contend that, in the time since he was sentenced, the applicable sentencing range has been lowered pursuant to 28 U.S.C. § 994(o), as would be necessary to invoke 18 U.S.C. § 3582(c)(2).

Even if the Court had such authority, however, the Court would deny Basurto's motion. The Court has already considered all the relevant facts and law and has determined, for the

reasons stated on the record at the sentencing hearing, that Basurto's sentence is sufficient, and not greater than necessary, to serve the purposes set forth in 18 U.S.C. § 3553(a)(2). Basurto's motion is therefore denied.

ORDER

Based on the foregoing, and on all of the files, records, and proceedings herein, IT IS HEREBY ORDERED that defendant Keener Basurto's motion to reduce his sentence [ECF No. 253] is DENIED.

Dated: December 28, 2012

s/Patrick J. Schiltz

Patrick J. Schiltz

United States District Judge